Remington contains no teaching that would remedy the defects in Straub et al. Remington simply discloses that various granulation and compression methodologies are known.

The table below highlights some of the differences between the instant application and the cited art references:

	Vendola	**Hanes**	**Straub**
Process:	Wet or dry granulation	Spray drying	Spray drying
Method for forming pores	Try drying is used to remove volatilizable agent from wet mass or dry compaction	Varying the inlet and outlet temperature of spray drying process controls porosity & surface roughness	Spray drying is used to remove solvents and pore forming agents
Matrix	Wet mass	Solution, emulsion or suspension	Solution, emulsion or suspension
Claim	Process enhancement, increases tablet hardness	Incorporates surfactant on surface of API for pulmonary delivery	Enhances dissolution of API in Aqueous media
Material size	Granules, 44-840 □m	Microparticles, 5-30 μm	Microparticles, 0.5-5.0 μm

To summarize, Applicant submits there is no way a skilled individual would find the instant invention obvious from any combination of Straub et al. and Remington. It is well established that the mere fact that references can be combined does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Fitch, 23 USPQ2d 1780 (Fed. Cir. 1992) There is no such suggestion here. Applicant respectfully submits the only way one of ordinary skill in the art would find the present invention obvious from any combination of the references is by hindsight. And, the law is emphatic that hindsight is an improper standard. The Federal Circuit has explained the proper test:

> The consistent criterion for determination of obviousness is whether the prior art would have suggested to one of ordinary skill in the art that this process should be carried out and would have a reasonable likelihood of success, viewed in light of the

prior art. Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure.

In re Dow Chemical Co., 5 USPQ.2d 1529, 1531 (Fed. Cir. 1988); Amgen, Inc. V. Chugai Pharmaceutical Co. Ltd. 18 USPQ.2d 1016. 1022-23 (Fed. Cir.), cert. denied, 502 U.S. 856 (1991). Again, none of the references, or any combination thereof, comes even close to suggesting Applicant's invention, let alone providing any expectation of success.

The Examiner is respectfully urged to reconsider the rejections in this application as it is submitted that, for the reasons stated above, they simply are not tenable and/or are otherwise based on hindsight.

Accordingly, in view of the present comments, the rejections under 35 USC 103 have been overcome. Withdrawal of such rejections is requested.

This application is believed to be in condition for allowance. Favorable consideration is respectfully requested.

The Commissioner is hereby authorized to charge any fees required under 37 C.F.R. §§ 1.16 and 1.17, or to credit any overpayment to Deposit Account No. 16-1445.

Respectfully submitted,

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Carmella A. O'Gorman

Carmella A. O'Gorman
Attorney for Applicant(s)
Reg. No. 33,749

Pfizer Inc.
Patent Department, MS8260-1611
Eastern Point Road
Groton, CT 06340
(860) 686-1847